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power to abandon the proceedings after the award of damages had been made by the commissioners. *York Shore Water Co. v. Card* (1917, Me.) 102 Atl. 321.

The court in its opinion recognizes that its decision is not in accord with the rule prevailing in the majority of jurisdictions, but rightly says that so much depends upon the statutory system of each state that precedents in another state are not necessarily of value. The decision is based upon the view that under the Maine system "the award of the county commissioners stood as a judgment until and unless it was appealed from." The making of the award therefore imposed a duty upon the company to pay the sum awarded, a duty which it had no power to destroy except by securing a reversal on appeal.

EVIDENCE—DYING DECLARATIONS—OPINION RULE.—At a trial for murder the following statement was admitted, "O Lord, what a pity for Frank McNeal to shoot a poor boy like me for nothing." *Held*, that the statement was inadmissible, as it was at most an exclamation of self pity. *McNeal v. State* (1917, Miss.) 76 So. 625.

The leading text-writers are in conflict over the question whether dying declarations containing expressions of opinion should be admitted. 4 Chamberlayne, *Evidence*, sec. 2852; 2 Wigmore, *Evidence*, sec. 1447. The Mississippi Supreme Court has held admissible such declarations as "killed me without any cause" and "killed him without cause." *House v. State* (1897) 74 Miss. 777, 21 So. 657; *Jackson v. State* (1908) 94 Miss. 107, 48 So. 3. The court declared that it would not extend the doctrine of these cases. For a discussion of another recent case on the subject, see (1918) 27 YALE LAW JOURNAL, 700.

INSURANCE—ACCIDENT—DEATH BY SUBMARINE.—The defendant issued a policy insuring the holder against injury caused "by external, violent, and accidental means." Injuries "from fire-arms of any kind or from explosives" were expressly excluded. The insured sailed for England in 1915 on the *Arabic*, and this vessel was torpedoed and sunk by a German submarine. Later the body of the insured was found, wearing a life preserver, the death having been caused by drowning. *Held*, that the beneficiary could recover on the policy. *Woods v. Standard Acc. Ins. Co.* (1918, Wis.) 166 N. W. 20.

The sinking of the vessel was of course an intentional act, although, by reason of the Act of State doctrine, neither the crew of the submarine nor the rulers of Germany could be held liable for it in a municipal court. See COMMENTS, *supra*, p. 812. Nevertheless, the death may properly be held to be due to an accident of the sea as we have come to regard it. The court considers the explosion of the torpedo as a remote cause of the death and hence holds the exclusion clause of the policy not applicable. In construing a policy like this it is proper to apply a much narrower rule of causation than would be applied in the law relating to crimes or torts.

WILLS—REPUBLICATION BY CODICIL—EFFECT ON LAPSED LEGACY.—The testatrix bequeathed \$10 to her daughter. After the daughter's death a codicil was executed modifying another bequest but making no reference to the lapsed legacy. By statute lineal descendants of a legatee who predeceases the testator take the bequest given to such legatee (Cal. Civ. Code, sec. 1310). Another section of the Code (sec. 1307) gives a pretermitted heir, unless his omission appears by the will to have been intentional, a share in the estate such as he would have taken in case of intestacy. The son of the deceased daughter claimed as pretermitted heir of the testatrix. *Held*, that the son was entitled to share in the estate as a pretermitted heir, because republication of the will made void the legacy to the daughter then deceased, and section 1310 applied.

only to lapsed and not to void legacies. Shaw and Sloss, JJ., *dissenting*. In *re Matthews' Estate* (1917, Cal.) 169 Pac. 233.

Under similar statutes the prevailing view allows the descendant of a legatee dead when the will was made to take the bequest. *Lewis v. Corbin* (1907) 195 Mass. 520, 81 N. E. 248; *contra*, *Lindsay v. Pleasants* (1846) 39 N. C. 320. But even if one accepts the minority view as to the construction of such statutes, it is difficult to support the court's application of the doctrine of republication in the principal case. This doctrine should be applied to effectuate not to defeat the testator's intentions. See *Izard v. Hurst* (1697, Ir. Ch.) 2 Freem. 223 (adeemed legacy not revived); *Gurney v. Gurney* (1855, Eng. V. C.) 3 Drew. 208 (legacy to witness not rendered void); *In re McCauley's Estate* (1903) 138 Cal. 432, 71 Pac. 512 (legacy to charity not made illegal).

WORKMEN'S COMPENSATION ACT—WHO IS AN EMPLOYEE—OFFICER OF CORPORATION.—The claimant received \$50 per week for his services as secretary-treasurer of respondent corporation as well as salesman and collector of its accounts. He sustained an injury while acting in the latter capacity. He was also one of the three stockholders of the corporation. *Held*, that the mere fact that he was an officer and stockholder did not exclude him from the benefits of the Workmen's Compensation Act. *In re Raynes* (1917, Ind.) 118 N. E. 387.

On a somewhat similar state of facts the New York Court of Appeals held that the majority stockholder and president of a corporation, whose salary was \$70 per week, was not an employee within the meaning of the Workmen's Compensation Act. *Bowne v. S. W. Bowne & Co.* (1917) 221 N. Y. 28, 116 N. E. 364, discussed in 27 YALE LAW JOURNAL, 284. The principal case approves but distinguishes this decision. The court declares that there is no single decisive test which can be applied to the problem as to what sort of employee is entitled to compensation. The solution depends on a consideration of all the facts in each particular case, regard being had to the purposes of the legislation.